

A Bill for an Act Relating to Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§264- Emergency powers; traffic emergency zones. (a) Notwithstanding any law to the contrary, if the governor or state director of transportation, in the case of a state highway, or the mayor of a county or the county director of transportation, in the case of a county highway, determines that substantial endangerment to public health and safety is or is highly likely to be caused by the temporary closure of, or the lack of adequate access to an area by, a county highway or a state highway as defined under section 264-1(a), which requires immediate action, the governor or state director of transportation, in the case of a state highway, or a mayor of a county or the county director of transportation, in the case of a county highway, without a public hearing, may designate the area to be a traffic emergency zone, and may take any action that may be necessary until access to the designated area has been established. The designation shall fix a place and time, not later than twenty-four hours after the designation, for a hearing to be held before the state director of transportation, or the county director of transportation.

(b) Upon designation of an area as a traffic emergency zone by the governor or the state director of transportation, or the mayor of a county or the county director of transportation:

- (1) State or county highway or street improvements, including but not limited to new construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation of any county or state highway may be undertaken without regard to chapter 103D;
- (2) All structures and improvements to land to be used for state or county highway purposes:
 - (A) May be planned, designed, and constructed by the appropriate state or county department without the approval of county agencies; and
 - (B) Shall be exempt from any county permitting requirements; and
- (3) The state department of transportation or county department of transportation may acquire and designate cane haul roads as state or county highways; provided that the use of cane haul roads as state or county highways shall be for temporary purposes only for a period of time as determined by the state or county director of transportation, but for no longer than the public health and safety requires.

(c) Any other law to the contrary notwithstanding, except as otherwise provided in subsection (d), any decision under this section by the governor, the department of transportation, the mayor of a county, the transportation department of a county, or any officers, employees, or agents of the State or a county, shall not give rise to a cause of action or claim against:

- (1) The State or any county;
- (2) The state department of transportation;
- (3) A county department of transportation; or
- (4) Any officer, employee, or agent of an entity under paragraphs (1) to (3).

(d) There shall be a qualified standard of care of the common-law emergency doctrine that shall apply to a claim of negligence in any design, construction, repair, and correction undertaken pursuant to this section.

(e) Where a cane haul road is designated as a state or county highway under subsection (b)(3), the State or county, as the case may be, shall indemnify the owner of the cane haul road from any liability that may arise out of the use of such cane haul road when designated as a state highway.

(f) For the purposes of this section:

“Cane haul road” means a road that is part of an agricultural system of roads or ways established to take agricultural products from the fields to processing facilities without using the public highways.

“County highway” shall have the same meaning as in section 264-1(a).

“State highway” shall have the same meaning as in section 264-1(a).

“Traffic emergency zone” means an area that is accessible by a single state highway and whose accessibility would be compromised by major motor vehicle accidents, fires, floods, erosion, or other factors that would cause the closure of a state or county highway and causes or is highly likely to cause substantial endangerment to public health and safety.

(g) Each designation of a traffic emergency zone shall expire within five years.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 2007.)

Note

1. Edited pursuant to HRS §23G-16.5.